



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

|   |             |                      |                         |                  |
|---|-------------|----------------------|-------------------------|------------------|
| APPLICATION NO.   | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.     | CONFIRMATION NO. |
| 10/527,872  | 03/16/2005  | Christian Popp       | ZAHFRI P726US           | 2270             |
| 20210 7590 01/18/2007<br>DAVIS & BUJOLD, P.L.L.C.<br>112 PLEASANT STREET<br>CONCORD, NH 03301 |             |                      | EXAMINER<br>HO, HA DINH |                  |
|   |             |                      | ART UNIT                | PAPER NUMBER     |
|   |             |                      | 3681                    |                  |
| SHORTENED STATUTORY PERIOD OF RESPONSE  |             | MAIL DATE            | DELIVERY MODE           |                  |
| 3 MONTHS  |             | 01/18/2007           | PAPER                   |                  |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

10/527,872

Applicant(s)

POPP ET AL.

Examiner

Ha D. Ho

Art Unit

3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 16 March 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 20-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 20-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/16/05.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

1. This is the first Office Action on the merits of Application No. 10527872 filed on 03/16/05. Claims 20-39 are currently pending.

#### ***Drawings***

2. The amended drawings were received on 03/16/05. These drawings are considered non-compliant because they have failed to meet the requirements of 37 CFR 1.121, i.e., pages 1 and 2 are not properly identified in the top margin as "Replacement Sheet." Correction is required.

#### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 20-39 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

- Regarding claims 20, 22, 23, 25, 26, 28, 29 and 39, the term "in particular" renders the claim indefinite since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. One could not tell from such a claim if the narrower range or limitation is a restriction or limitation on the broader range or limitation.

- Claim 22, the recitation of “a function of an intensity of a change of a driver’s wish, in particular as a function of one or more of the speed and size of a change” constitutes a double inclusion since that was previously recited in claim 1.
- Claim 24, the recitation of “a predefined, speed-related limit value” constitutes a double inclusion since that was previously recited in claim 1.
- Claim 24 recites the limitation “the predefined, pressure-related limit value”. There is insufficient antecedent basis for this limitation in the claim.
- Claim 25, line 2, the recitation of “a change” constitutes a double inclusion since that was previously recited in claim 1.
- Claim 26 recites the limitation “the predefined, pressure-related limit value”. There is insufficient antecedent basis for this limitation in the claim.
- Claim 27 recites the limitation “the predefined, time-related limit value”. There is insufficient antecedent basis for this limitation in the claim.
- Claim 29 recites the limitations “the time-related limit value” and “the pressure-related limit value”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 30 recites the limitations “the time-related limit value” and “the pressure-related limit value”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 30, line 3, the additional of the word “type” to an otherwise definite expression extend the scope of the expression in the claims so as to render the claims indefinite. *Ex parte Copenhaver*, 109 USPQ 118 (Bd. App. 1955).

Art Unit: 3681

- Claim 31 recites the limitations “the time-related limit value” and “the pressure-related limit value”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 31, lines 4-7, the recitations of “a multiple downshift” and “a single downshift” constitute double inclusions since those were previously recited in claim 31, lines 2-3.
- Claim 32 recites the limitations “the time-related limit value” and “the pressure-related limit value”. There is insufficient antecedent basis for these limitations in the claim.
- Claim 33, line 2, recites the limitation “the pressure”. There is insufficient antecedent basis for this limitation in the claim.
- Claim 39, line 2, recites the limitation “the control sequences”. There is insufficient antecedent basis for this limitation in the claim.

***Allowable Subject Matter***

5. Claims 20-39 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record does not disclose or render obvious a motivation to provide for a method for carrying out gear shifts of an automatic transmission of a motor vehicle during a gear shift such that to increase spontaneity and reduce shifting frequency as defined by the limitations of claim 20; including interrupting a downshift from a first gear to a second gear without a delay, and returning the first gear to when an interruption is recognized, wherein the interruption is

Art Unit: 3681

established when an upshift is called before a current transmission input speed has deviated from a synchronous speed of the first gear by a predetermined value, which is specified as a function of an intensity of a change of a driver's wish as a function of one or more of a speed and size of a change of a accelerator pedal angle.

### *Cited Prior Art*

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Terayama et al'257, Minagawa et al'880, Mitchell et al'100, and Tsuchiya et al'795 which each shows a transmission control for an automatic transmission, wherein the clutches and brakes are controlled during a gear shift.

### *Communication*

8. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are **(571) 273-8300**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office on \_\_\_\_\_

(Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

Art Unit: 3681

---

(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH  
(571) 272-7091  
January 16, 2007

  
**HAHO**  
**PRIMARY EXAMINER**  
Art Unit 3681

01/16/07